

REQUIREMENTS & INSTRUCTIONS FOR LICENSE - CEMETERY AUTHORITY

Access this form via website at: www.hawaii.gov/dcca/pvl

No cemetery authority established after July 1967 will be issued a license unless it is a **PERPETUAL CARE CEMETERY**.

Cemetery authority established after July 1, 1967, must be a religious institution, corporation, county or any association which has a perpetual existence. (If cemetery was in operation before July 1, 1967, it need not be a perpetual care cemetery.) The applicant can also be an individual.

1. Complete and sign the application. Failure to provide the requested information will delay the processing of the application.

2. **Submit** the following with a completed application:

(a) Fees (Make check payable to COMMERCE & CONSUMER AFFAIRS):

If filing in an even-numbered year, pay \$610
(Application*-\$100 + License-\$200 + compliance resolution fund-\$110 +
one-half of the biennial renewal-\$200)

If filing in an odd-numbered year, pay \$355**
(Application*-\$100 + License-\$200 + compliance resolution fund-\$55)

*Application fee is not refundable.

**Subject to renewal on or before December 31, of each ODD-NUMBERED year, regardless of issuance date.

NOTE: One of the numerous legal requirements that you must meet in order for your new license to be issued is the payment of fees as set forth in this application. You may be sent a license certificate before the check you sent us for your required fees clears your bank. If your check is returned to us unpaid, you will have failed to pay the required licensing fee and your license will not be valid, and you **may not** do business under that license. Also, a \$15.00 service fee will be charged for checks which are returned by the bank.

If for any reason you are denied the license you are applying for, you may be entitled to a hearing as provided by Title 16, Chapter 201, Hawaii Administrative Rules, and/or Chapter 91, Hawaii Revised Statutes. Your written request for a hearing must be directed to the agency that denied your application, and must be made within 60 days of notification that your application for a license has been denied.

(b) A bond in the amount of \$50,000 (bond form attached). In addition, for each trust fund that is administered by a board of trustees, submit a bond in the amount of \$100,000 and an affidavit by the chairperson of the board of trustees attesting that no member of the board is affiliated with the applicant who is seeking licensure.

(c) If the application is for a corporation, partnership, LLC or LLP, we will require the following proof to show that the entity is properly registered with the Business Registration Division (BREG), Department of Commerce and Consumer Affairs, State of Hawaii, P.O. Box 40, Honolulu, Hawaii 96810. (Please call them for the proper forms at (808) 586-2727 or visit their website at: www.businessregistrations.com/home.html to order Certificates of Good Standing, forms, etc.)

If the entity has been registered in this State for LESS THAN ONE (1) YEAR, **ATTACH** a "**filed-stamped**" copy of the document filed with BREG; or the same certificate mentioned below.

If the entity has been registered in this State for MORE THAN ONE (1) YEAR, **ATTACH** a "**Certificate of Good Standing**" or "**Certificate of Qualification**."

(d) If applicant will be using a trade name, **attach** a **current** "filed-stamped" copy of the "**Application for Registration of Trade Name**" approved by the Business Registration Division. You may contact them at (808) 586-2727.

(e) For cemetery operation **before** July 1, 1967, map(s) of plat(s) which was approved by the local authority.

(f) For cemetery established **after** July 1, 1967, submit one of the following:

(1) A copy of written Certificate of Dedication bearing endorsement of the board of supervisors or city council of approval of location of boundaries of cemetery; or

(2) A certified copy of a resolution of the board of supervisors or city council approving the location and boundaries of the cemetery.

(g) Map(s) or plat(s) filed or recorded in the Bureau of Conveyances or in the Office of the Assistant Registrar of the Land Court.

(h) A current certificate of title of land offered for burial purposes if incumbrances exist. If the property is not clear of all incumbrances, submit evidence that every incumbrancer has given his written consent to subject and subordinate his incumbrance to the dedication of such property to cemetery purposes and the title of any plot, crypt or niche owner was recorded.

3. **Submit** the following documents:

- (a) Current **financial statements** not more than 1 year old consisting of a balance sheet, income statement and statement of changes in stockholders equity, prepared and signed by a licensed certified public accountant or public accountant. The financial statements may be compiled, reviewed or audited and may be prepared on a cash or accrual basis.
- (b) A **current credit report** for each officer, partner, manager, member or individual applicant (from a credit reporting agency issued not more than 6 months ago) covering at least the previous five years;
- (c) A current **Hawaii State Tax Clearance** (not more than 6 months old) with an original State Department of Taxation stamp.
- (d) Executed copy of the **declaration of the trust** between applicant and the designated trustee of the trust fund for each trust fund; and
- (e) A copy of the **sales contract forms** to be used in the selling of pre-need services and cemetery property.

4. Mail all required items to:

Cemetery and Funeral Trust Program
DCCA, PVL, Licensing Branch
P.O. Box 3469
Honolulu, Hawaii 96801

OR

Deliver to office location at:

335 Merchant St., Room 301
Honolulu, Hawaii 96813

5. To obtain a copy of the laws, Chapter 441, Hawaii Revised Statutes and rules, Chapter 75, Hawaii Administrative Rules relating to Cemetery and Funeral Trusts, send a written request to: *DCCA, Commerce and Consumer Affairs, P.O. Box 3469, Honolulu, Hawaii 96801*. Chapter 436B, Hawaii Revised Statutes, the Professional and Vocational Licensing Act should be read in conjunction with the above statutes.

The laws and rules are also posted on our website at: www.hawaii.gov/dcca/pvl. Look under "Cemetery and Pre-Need Funeral Authority".

Renewal of License

- (a) Pay appropriate fee.
- (b) Continuation of bond. (Bond is continuous unless cancelled.)
- (c) Renew on or before December 31 of every odd number year.
- (d) Submit a trust fund report.

Restoration of Forfeited License

- (a) Submit written application for restoration accompanied by restoration fees. (Renewal fee plus 10% penalty). Forfeiture results from failure to renew license on time.
- (b) License may be restored within one year only.

Abandonment of Application

Your application shall be considered abandoned and shall be destroyed if you fail to provide evidence of continued efforts to complete the licensing process for two consecutive years; provided that the failure to provide evidence of continued efforts includes but is not limited to: (1) failure to submit the required documents and other information requested by the licensing authority within two consecutive years from the last date the documents or other information were requested, or (2) failure to provide the licensing authority with any written communication during two consecutive years indicating that you are attempting to complete the licensing process, including attempting to complete the examination requirement.

APPLICATION FOR CEMETERY AUTHORITY LICENSE

Access this form via our website at: www.hawaii.gov/dcca/pvl

Please read the attached instructions.

Name of Applicant (Individual – First, Middle, LAST or Name of Corporation, Partnership, LLC/LLP)

Trade Name (if one will be used)

Mailing Address

Location and Address of Cemetery:

Business Phone No.:

Person Responsible for Daily Operations:

Phone No.:

Fax No.:

Indicate type of organization: ☐ Profit ☐ Nonprofit

Approved/Denied:

Date:

Eff. date:

License No.:

CE -

FOR OFFICE USE

Indicate the type of Business Entity:

☐ Individual (Sole Owner) ☐ County
☐ Corporation ☐ Association
☐ Partnership ☐ LLC
☐ Religious Institution ☐ LLP

CORPORATION, PARTNERSHIP, LLC, LLP

List Name & Title

Residence Address

Residence Phone No.

Social Security No.

President/Partner/Manager or Member

Vice President/Partner/Manager or Member

Secretary/Partner/Manager or Member

Treasurer/Partner/Manager or Member

Circle or underline answers and give details if required:

1 Does the applicant have perpetual existence? YES NO

2 Are there any incumbrances on the cemetery property being offered for sale? YES NO

If yes, is there a recorded written consent of every incumbrancer thereof that his incumbrance shall be subject and subordinate to the dedication of such property to cemetery purposes and the title of any plot, crypt or niche owner? Please explain on a separate sheet.

3. The cemetery is a..... ☐ burial park for earth interment
(Check more than one if applicable) ☐ a mausoleum for vault or crypt interment
☐ a structure or place for interment of cremated remains

(CONTINUED ON BACK)

PROPERTY INVENTORY

a. Total number of plots now in existence _____

Total number of plots available for use as of date of application:

developed _____

undeveloped _____

List size(s) and number of plots below:

| Size | No. |
|------|-----|
| | |
| | |
| | |
| | |
| | |

b. Total number of crypts in existence _____

Total number of crypts available for use as of date of application:

developed _____

undeveloped _____

List size(s) and number of crypts below:

| Size | No. |
|------|-----|
| | |
| | |
| | |
| | |
| | |

c. Total number of niches in existence _____

Total number of niches available for use as of date of application:

developed _____

undeveloped _____

List size(s) and number of niches below:

| Size | No. |
|------|-----|
| | |
| | |
| | |
| | |
| | |

4. Was this cemetery in operation before July 1, 1967? _____

5. For cemetery authority established after July 1, 1967:

a. Date location and boundary of cemetery approved by the board of supervisors or city council: _____

b. ☐ The Certificate of Dedication was endorsed by the board of supervisors or city council;

☐ A certified copy of a resolution of the board of supervisors or city council approving the location and boundaries was recorded.

c. Date written Certificate of Dedication containing a description of the land or other property which is to be made available for cemetery purposes and dedicating the property exclusively to cemetery purposes was filed in the Bureau of Conveyances or in the Office of the Assistant Registrar of the Land Court: _____

d. Date map or plat was filed or recorded in the Bureau of Conveyances or in the Office of the Assistant Registrar of the Land Court: _____

(CONTINUED ON NEXT PAGE)

6. Perpetual Care Fund:

- a. Name of perpetual care trust _____
- b. How is it administered? (check one) ☐ Board of Trustees ☐ Trust Company
- c. For a perpetual care trust that is administered by a **board of trustees**, submit the name, address, principal place of employment, and office held on the board for each member.
- Are the majority of board members residents of the State? ☐ YES ☐ NO
- Are any board members affiliated with the authority that appointed the board? ☐ YES ☐ NO
- Name and address of the Custodian of Trust Funds _____
- d. For a perpetual care trust that is administered by a **trust company**: _____
- Name of trust company: _____
- Name of trust officer: _____

7. Pre-Need Interment Trust

- a. Name of Pre-Need Interment Trust(s): _____
- _____
- b. How is it administered? (check one) ☐ Board of Trustees ☐ Trust Company
- c. For each pre-need trust that is administered by a **board of trustees**, submit the name, address, principal place of employment, and office held on the board for each member on a separate sheet of paper.
- Are the majority of board members residents of the State? ☐ YES ☐ NO
- Are any board members affiliated with the authority that appointed the board? ☐ YES ☐ NO
- Name and address of the Custodian of Trust Funds _____
- d. For a pre-need trust that is administered by a **trust company**:
- Name of trust company: _____
- Name of trust officer: _____

AFFIDAVIT OF APPLICANT:

I certify that the answers and statements in this application and the documents attached are true and correct. I understand that any misrepresentation is grounds for refusal or subsequent revocation of license (Section 710-1017, Hawaii Revised Statutes).

Date

By _____
Signature of Applicant

Print Name

Title

STATE OF HAWAII
CEMETERIES AND FUNERAL TRUSTS
Department of Commerce & Consumer Affairs
P. O. Box 3469, Honolulu, Hawaii 96801
Access this form via website at: www.hawaii.gov/dcca/pvl

BOND

CEMETERY AUTHORITY

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS:

THAT WE, _____,
(Name of Applicant)

of _____,
(Address of Applicant)

State of Hawaii, as Principal, and _____ registered and authorized to do business
(Name of Surety)

in the State of Hawaii, as Surety, are held and firmly bound unto the State of Hawaii, as Obligee, in the penal sum of \$_____ lawful money of the United States of America, for the payment of which to the Obligee, well and truly to be made, we do hereby bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE AS FOLLOWS:

That, whereas, the above Principal is to be issued a license under the provisions of Chapter 441, Hawaii Revised Statutes, to act as a Cemetery Authority as defined therein in the State of Hawaii;

NOW, THEREFORE, if the Principal, in the event license is issued to him, will faithfully, promptly, and truly account and pay over to all persons to or for whom he may sell, or otherwise deal in cemetery property all sums of money that may properly be due them, then this obligation shall be void; otherwise, this obligation shall be and remain in full force and effect.

AND, as provided in Section 441-22, Hawaii Revised Statutes, every person sustaining any damage resulting from a failure on the part of the Principal to faithfully, promptly and truly account and pay over to him all sums that may properly be due him by reason of the Principal's selling or otherwise dealing with such person's cemetery property shall have a right of action to recover on this bond, but the aggregate liability of the Surety to all such persons shall in no event exceed the amount of this bond.

AND, the Surety, herein named, may cancel or terminate this bond by delivering notice to the Director of Commerce and Consumer Affairs of the State of Hawaii sixty (60) days prior to the date of termination or cancellation.

IN WITNESS WHEREOF, we the said Principal and the said Surety, have hereunto set our hands and seals
this _____ day of _____ A.D. 20_____.

INSTRUCTIONS FOR FILING:

1. Complete **all** sections of form as required.
2. **Both** applicant **and** surety must complete and **notarize** page 2.
3. Failure to submit a completed form will delay processing of your license.
4. Attach Power of Attorney if applicable.

PRINCIPAL

SURETY

By _____

ACKNOWLEDGEMENT
(PARTNERSHIP OR INDIVIDUAL)

STATE OF HAWAII

City and County of _____ } ss.

On this _____ day of _____, 20 _____, before me personally came _____, to me known, and known to me to be the person(s) whose name(s) are subscribed to the above instrument, and acknowledged to me that _____ executed same.

NOTARIAL
SEAL

Notary Public, State of _____
My Commission expires _____

ACKNOWLEDGEMENT
(ENTITY)

STATE OF HAWAII

City and County of _____ } ss.

On this _____ day of _____, 20 _____, before me personally came _____, to me known, who, being duly sworn, did depose and say: That he resides in _____; that he is _____ of the entity described in and which executed the above instrument, and acknowledged to me that _____ executed same.

NOTARIAL
SEAL

Notary Public, State of _____
My Commission expires _____

ACKNOWLEDGEMENT
(SURETY)

STATE OF HAWAII

City and County of _____ } ss.

On this _____ day of _____, 20 _____, before me personally came _____, known to me to be attorney-in-fact for _____, and known to me to be the person whose name is subscribed to the above instrument, and acknowledged to me that _____ executed same.

NOTARIAL
SEAL

Notary Public, State of _____
My Commission expires _____